IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.5599 OF 2005

Pradeep Ramchandra Kakade. ... Applicant.
Versus.
The State of Maharashtra. ... Respondent.

Shri A.P.Mundargi, Senior Counsel i/by Shri Ujwal R.Agandsurve for the Applicant.

Shri S.R.Borulkar, P.P. with Shri K.V.Saste, A.P.P.for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 5th October, 2005.

P.C.:

1. Heard the learned Senior Counsel appearing for the Applicant and the learned A.P.P. for the State.

2. This is an application for anticipatory bail filed by the Applicant apprehending arrest in connection with offence registered under sections 403, 406, 409, 420, 465, 472, 474 and 120-B of the Indian Penal Code. The F.I.R. relates to activities involving fabrication of documents, and misappropriation of public funds in Employment Guarantee Scheme in District Solapur. The learned Senior Counsel invited my attention to the averments made in the application. He invited my attention to the detailed affidavit-in-rejoinder filed by the Applicant. He submitted that each and every allegation made in the F.I.R. has been explained by the Applicant in the application as well as in the

rejoinder. He invited my attention to the hierarchy of the Agricultural Officers in the District. He pointed out that the hierarchy consists of District Superintending Agricultural Officer, Taluka Agricultural Officer, Agricultural Supervisor, and Agricultural Assistant. He pointed out that every Taluka Agricultural Officer has three subordinate Agricultural Supervisors and the Applicant happens to be one of the Agricultural Supervisors. He pointed out that in fact for preparation of musters, the Agricultural Assistants who are his subordinate officers were responsible and he invited my attention to the duty list of Agricultural Supervisors and Agricultural Assistants and pointed out that it was not his duty to identify the individual workers who received payment of remuneration and the said responsibility was of the Agricultural Assistant. he pointed out that the statement made on oath and documents which are annexed to the Application as well as to the affidavit-in-rejoinder clearly show that there is absolutely no case against the Applicant and no offence has been made out so far as the Applicant is concerned and all that can be said is that he has done his duty.

3. The learned Public Prosecutor has invited my attention to the affidavit-in-reply filed by the State and the statements recorded during the investigation and has opposed the application for anticipatory bail.

4. There is enough material on record to show that the Applicant even before receiving necessary grant from the Government spent more than Rs.40,000/- for making payment to the labourers. The allegation made in the F.I.R. as well as in the affidavit-in-reply is that bogus signatures and thumb impressions of labourers have been made in the book maintained for recording payments. There are statements recorded during the investigation which prima-facie support the allegation regarding bogus signatures and thumb impressions of labourers recording receipt of the payment of remuneration allegedly made by the Applicant by spending amount from his own pocket. The case of the Applicant is that he made payment of more than Rs.40,000/- from his own pocket and later on received grant from the Government funds. It is significant to note that the case of the prosecution appears to be that beneficiary of the work under the EG Scheme is the close relative of the Applicant related to the Applicant from his wife's side. In the rejoinder it is not disputed by the Applicant that the work under the EG Scheme was allegedly done in the land of Sanjay Nikam and Saraswati Nikam who are stated to be the close relatives of the Applicant. In rejoinder it is merely stated that these allegations do not find place in the F.I.R. lodged by the Tahsildar.

5. The allegation of the prosecution seems to be of

large scale conspiracy to which various officers are parties. The duty list of the Applicant shows that he was entrusted with the duty of verifying the muster/list prepared for making payment of remuneration to the labourers. In the present case the allegation is that the Applicant paid an amount of Rs.40,000/- from his own pocket to the labourers and obtained reimbursement later on. The prosecution has collected during the course of investigation some material to show that the labourers were not genuine and the thumb impressions or signatures were bogus. Significantly the beneficiaries of the work allegedly carried under the Employment Guarantee Scheme are the close relatives of the Applicant.

6. As held by the Apex Court, the gravity of allegations and the need for custodial interrogation are the only factors which are to be considered while considering the application for anticipatory bail. In the present case the allegations are of very serious nature and the material collected during investigation prima-facie indicates involvement of the Applicant and therefore, custodial interrogation is required in the present case. No case is made out for grant of anticipatory bail. The Application is rejected.

Judge.